

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) Reconsideration Decision (RD) dated August 29, 2022 where the ministry denied the appellant's request for a crisis supplement for a portable/battery operated fan (the fan) because they did not meet all the legislated criterion of section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

Specifically, the ministry determined they are satisfied that the item requested is for an item unexpectedly needed, however they are not satisfied that:

- There are no resources available to meet the need; and
- Failure to obtain the fan will result in imminent danger to physical health.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation, section 57

Part E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the Employment and Assistance Act.

Background Information

- The appellant receives monthly disability assistance as a couple with \$1853.50 support allowance and \$150 shelter allowance. They also receive a monthly diet allowance of \$35 and a transportation supplement of \$104.
- On August 3, 2022 the appellant reported they are homeless and requested a fan because there is no relief from the heat; they are at risk of heat exhaustion; and have no resources to purchase a fan.
- On August 5, 2022 the ministry provided the appellant with information as to where the local cooling centres were.
- On August 8, 2022 the ministry denied the request for a fan because there are resources available to meet the need.
- On August 15, 2022 the appellant completed a Request for Reconsideration (RFR) in which they indicate as their reasons for requesting a review are:
 - They can use the fan indoors, but sensible to get a decent portable fan with batteries/usb;
 - There is power outdoors and is not breezy every day;
 - They still need to keep from getting sunstroke, dehydration, etc.

The Reconsideration Decision is as follows (in summary):

- Crisis supplements address urgent situations that a person cannot reasonably anticipate or plan for and the ministry acknowledges that extreme weather can be difficult to predict or plan for, therefore the unexpected item of need criterion is met.
- The ministry is not satisfied there are no resources to meet the appellant's needs because they have been referred to alternate resources such as the provincial cooling centres in their area. There is no evidence that suggests they are unable to utilize the community resources.
- The ministry is not satisfied that failure to obtain the fan will result in imminent danger to their physical health. Although it is important to stay cool during extreme heat, there is no evidence to suggest that the fan will alleviate the extreme heat conditions for them.

Additional Information

On the Notice of Appeal (NOA) dated August 30, 2022 the appellant wrote:

- Because we were "NFA" (no fixed address) the ministry didn't think they could need the things for outdoors to keep cool and prevent sunstroke during extreme heat and weather.
- Since the previous decision was made, they have moved into an apartment that is older, has no fans and no air conditioning.
- They are still suffering from extreme heat and would like to buy a fan still.
- It is very uncomfortable and hard to sleep.

The appellant did not provide a written submission.

The ministry's written submission is the summary of the reconsideration decision.

Admissibility of Additional Information

The panel admits the appellant's NOA under section 22(4) of the Employment and Assistance Act, which allows for the admission of evidence reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Part F – Reasons for Panel Decision

The issue at appeal is whether the ministry's decision that the appellant was not eligible for a crisis supplement to meet the expense of buying a fan was reasonably supported by the evidence or was a reasonable application of the legislation.

Specifically, was the ministry reasonable in determining that the appellant was not eligible for a crisis supplement because

- There are no resources available to meet the need; and
- Failure to obtain the fan will result in imminent danger to physical health.

The appellant's position is they require a fan to help avoid them getting sunstroke during extreme heat and weather. They argue that the fan can be used indoors and outdoors and although they have since moved into an apartment, it does not have air conditioning or a fan to keep cool, so it is very uncomfortable to sleep.

The ministry's position is the appellant had community resources available to them. They argue that cooling centres were available to them and there was no evidence to suggest the appellant was not able to access this resource. The ministry also argues that failure to provide a fan will not result in imminent danger to the appellant's health because the use of a fan does not alleviate the extreme heat itself.

Panel Decision

Section 57(1) of the EAPWDR sets out 3 criteria all of which the appellant must meet before the ministry may provide a crisis supplement (full text of the relevant legislation follows the decision):

- a) the appellant requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed; **and** there are no resources available to the appellant; **and**
- b) failure to obtain the crisis supplement will result in imminent danger to the physical health of the appellant.

The ministry found that the appellant has met the requirement of the fan being an unexpected expense because the weather is unpredictable. This requirement will not be further considered by the panel.

As an alternative to purchasing a fan to keep cool, the panel considers it reasonable for the appellant to explore other resources available to them, such as a cooling centre near their area. The panel found no evidence in the appeal record to indicate the appellant could not make use of the cooling centres that were set up during the extreme heat. This would be a resource available to them. Therefore, the panel finds the ministry was reasonable to determine the criterion of section 57(a) has not been met.

In the RFR, the appellant indicated "they could use a fan indoors, even at the places they go". The use of a fan indoors does help move the air around, however if the appellant were at a cooling centre they would not be in imminent danger of heatstroke. The appeal record did not

specify whether the cooling centres are available only during the day, or where the appellant slept at night while they were homeless. In the NOA, the appellant advises they have now moved into an apartment that does not have air conditioning or fans and that it is very uncomfortable to sleep. There is no evidence to determine that being uncomfortable will result in imminent danger to the appellant's physical health. Therefore, the panel finds the ministry was reasonable to determine the criterion of section 57(1)(b) has not been met.

Conclusion

The panel finds that the ministry's determination the appellant was ineligible for a crisis supplement for a fan because they did not meet eligibility criteria was a reasonable application of the legislation, based on the evidence provided. The panel therefore confirms the ministry's decision. The appellant is not successful on this appeal.

Relevant Legislation

EAPWDR

Crisis supplement

57 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if

(a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed **and** is unable to meet the expense or obtain the item because there are no resources available to the family unit, **and**

(b) the minister considers that failure to meet the expense or obtain the item will result in

- (i) imminent danger to the physical health of any person in the family unit, or
- (ii) removal of a child under the *Child, Family and Community Service Act*.

APPEAL NUMBER 2022-0204

Part G – Order

The panel decision is: (Check one) Unanimous By Majority

The Panel Confirms the Ministry Decision Rescinds the Ministry Decision

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? Yes No

Legislative Authority for the Decision:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Janet Ward

Signature of Chair

Date (Year/Month/Day)

2022 October 4

Print Name

Cherri Fitzsimmons

Signature of Member

Date (Year/Month/Day)

2022/10/04

Print Name

Rick Bizarro

Signature of Member

Date (Year

2022/10/04